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June 23, 2021

VIA ECF & LAWYERS SERVICE

Honorable Madeline Cox Arleo, U.S.D.J.
United States District Court of New Jersey
Martin Luther King Building and
United States Courthouse
50 Walnut Street
Newark, New Jersey 07101

Re: Kevin Alfaro, et al v. Michael Rempusheski
Civil Action No.: 2:21-cv-02271-MCA-LDW
Our File No.: 13258-0275

Dear Judge Arleo:

This firm represents Defendant, Detective Michael Rempusheski (hereinafter "Detective Rempusheski"), with regard to the above-captioned matter. Pending before Your Honor is Detective Rempusheski's Motion to Dismiss Plaintiffs' Complaint pursuant to Fed. R. Civ. P. 12(b)(6).

We write to amend the arguments contained in Detective Rempusheski's reply brief because Plaintiffs' counsel has provided copies of the notice of claims served on Township of Nutley and the Nutley Police Department. Therefore, Plaintiffs' state law claims are not barred. However, Plaintiffs' cannot establish the elements to prevail on their malicious prosecution claim: (1) defendants instituted criminal proceedings against plaintiff; (2) defendants acted with malice; (3) there was no probable cause for the proceedings; and (4) the action was terminated favorably to the plaintiff. Lind v. Schmid, 67 N.J. 255, 262 (1975). Plaintiffs' cannot demonstrate a prima facie case that Detective Rempusheski engaged in malicious prosecution by issuing complaint summonses at the direction of the Assistant Prosecutor.

Thus, Plaintiffs' malicious prosecution claims must be dismissed.

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Thank you for your attention to this matter.

Respectfully submitted,

A handwritten signature in blue ink, appearing to be "L. Jones", written over a horizontal line.

Leonard V. Jones
For the Firm

c: Alan G. Peyrouton, Esq. (via ECF & e-mail Alan@peyroutonlaw.com)